



**THEMATIC RECOMMENDATIONS ADOPTED AT THE NGOs FORUM
PRECEDING THE 69TH ORDINARY SESSION OF THE AFRICAN COMMISSION
ON HUMAN AND PEOPLES' RIGHTS
10-12 NOVEMBER, 2021 - ZOOM WEBINAR**

TREC/001/11/21- LESBIANS, GAYS, BI-SEXUAL, TRANSGENDER AND INTERSEX PEOPLES RIGHTS

1. The African Commission should consider developing implementation guidelines to ensure vulnerable groups, including LGBTQIA persons are recognized as well their vulnerability; ensure that their organizations and centres are supported; that the LGBTQIA community members are protected from violence and discrimination or all forms; that they are represented and involved in the design of the recovery programmes and other development programmes post-Covid-19
2. The African Commission has developed resolutions, guidelines and general comments covering the issue of SOGI. Therefore the African Commission should consider a study to develop its own body of evidence and support States to implement recommendations therein. It would also be worth considering bringing a SOGIE complaints/case before the Commission
3. State Parties need to deliberately design programmes to address the needs and challenges faced by vulnerable groups by shying away from a broad and general approach, which cater for everyone broadly but does not address pockets of discrimination and SOGI-based violence;
4. National Human Rights Institutions need to play an active role in collaboration with civil society that have expertise and record in addressing issues pertinent to vulnerable groups.
5. The African Commission and its partners to ensure historical and systemic injustices are addressed in their root causes. With Covid-19, we have an opportunity to redefine the foundation of society and address the ugly face of discrimination and inequality that made vulnerable groups be disproportionately affected. It's by doing so that we can achieve the INCLUSIVE Africa we want.

TREC/001/11/21- REFUGEES AND INTERNALLY DISPLACED PERSONS

In the implementation of Article 12 of the African Charter which guarantees the right to freedom of movement of refugees and migrants and the principle of non-refoulement:

1. The situation of refugees, asylum seekers, migrants and stateless persons should be taken into account when developing and implementing national COVID-19 response plans;
2. Ensure that refugees and asylum seekers enjoy secure access to their territories to seek protection and, through collaboration with UN agencies and other humanitarian organizations, to put in place, at the borders, innovative and technologically advanced medical screening facilities to prevent the expulsion of asylum seekers and to combat trafficking in persons;
3. States should work with UN agencies and other relevant humanitarian organizations to ensure that internally displaced persons, asylum seekers and migrants continue to have access to humanitarian assistance and to benefit from protective measures against Covid-19, in particular by obtaining documents, by unimpeded access to public health information on the pandemic, containment and measures to restrict movement;
4. States must refrain from resorting to the detention of migrants and similar measures that may exacerbate the risk of the virus spreading when physical distancing measures are not respected;
5. States must continue to organize solidarity operations in refugee camps and strengthen all measures to protect asylum seekers, refugees, internally displaced persons, migrants and stateless persons;
6. States must integrate the post Covid-19 framework to reflect on the review of human mobility by prioritizing the protection of human rights and humanitarian action.

Done virtually on zoom on 12th November, 2021

TREC/003/11/21 - PROTECTING FREEDOMS OF ASSOCIATION, ASSEMBLY, AND EXPRESSION DURING PUBLIC HEALTH EMERGENCIES

On Evaluation and Oversight of Measures

1. State Parties continue to evaluate the emergency measures in place, and their effect on the enjoyment of the rights and freedoms in the African Charter on Human and Peoples' Rights and regularly report on compliance to the Commission. Monitoring and reporting should be based on existing normative frameworks and guidance, including *ACHPR Resolution 449*, the *Guidelines on Freedom of Association and Assembly in Africa*, other ACHPR guidance, and relevant advisory opinions of the African Court on Human and Peoples' Rights.
2. State Parties undertake inclusive, consultative, and participatory processes that involve all stakeholders in the process of drafting, reviewing, and monitoring the implementation of emergency laws and regulations. Special consideration should be made to ensure participation of marginalised groups who are disproportionately affected by the pandemic. Participation goes hand in hand with guarantees of widespread access to information to the public, unhindered access to diverse media and transparent decision-making processes by the State in measures to regulate the pandemic.
3. National Human Rights Institutions (NHRIs) and NGOs strengthen collaboration in ensuring independent oversight and appropriate phase-out of emergency measures based on normative frameworks and standards and provide prompt and periodic feedback to the African Commission.
4. State Parties ensure accountability and redress for victims affected by human rights violations during the enforcement of emergency measures in accordance with fair trial guarantees under the African Charter.

On Covid-19 Recovery

5. State Parties ensure that emergency legislation is limited in duration and include safeguards such as sunset or review clauses, in order to ensure return to ordinary laws as soon as the emergency situation is over, particularly relating to lifting states of emergencies, curfews, prohibitions of gatherings, restrictions on information dissemination and use of digital technologies for information collection and tracking.

6. State Parties facilitate meaningful public participation in COVID-19 recovery processes especially by groups most impacted by emergency measures, including decision making processes on how public resources are allocated and used for pandemic recovery.
7. The Commission, State Parties, NHRIs and NGOs collectively advocate for vaccine equity, as this affects participation by Africa in policy platforms affecting the Covid-19 recovery.

On Covid-19 in a changing world

8. State Parties ensure that internet is accessible and affordable for all, and do not take measures to impede access.
9. Rights-based legal safeguards must be put in place to regulate the appropriate use and handling of sensitive personal data collected and stored during the pandemic. In particular, all data processed in response to the crisis should be used only for the specific purpose of managing the Covid-19 pandemic and provide adequate oversight on such measures.
10. Surveillance powers must be exercised in a manner that is both necessary and proportionate. Individual surveillance or contact tracing and individual movement tracking must be tightly regulated with a goal towards ultimate phase-out.

Done virtually on Zoom on 12th November, 2021